IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 287 OF 1994

Appellate Authority for Industrial &
Financial Reconstruction. ... Petitioners

V/s.

Ceat Limited. ... Respondents.

None for the Petitioner.
Mr. Sharan Jaytiani, Sr. Counsel alongwith Ms. Kusum Joshi i/b. Mulla & Mulla for the Respondents.

CORAM : DR. D.Y. CHANDRACHUD,J.

20TH JUNE 2007.

P.C. :-

. On 15th June 1996, I.G. Shah, J. directed the Registrar of this Court to treat the papers sent by the Registrar of the Board for Industrial and Financial Reconstruction under Section 20(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 as a Company Petition for winding up.

2. Accordingly, the proceedings were numbered as such and the Petition has now been placed for final hearing. An affidavit in reply has been filed by the Respondent, Ceat Limited. The affidavit in reply adverts to the position that the Respondent was the Promoter of a scheme for the rehabilitation of Murphy

India Ltd. which was sanctioned by the B.I.F.R. by an order dated 21st August 1990. Pursuant to the implementation of the scheme, Murphy India Limited (MIL) merged with the Respondent (formerly Ceat Tyres (India) Ltd.). The transferor ceased to exist in law. In the affidavit it has been stated that the Respondent was never been declared to be a Sick Industrial Company nor has it made any reference to the B.I.F.R.

3. The record of this case contains an order passed by the A.A.I.F.R. on 19th January 1994. The order adverts to the fact that after holding an enquiry under Section 16(1) Murphy India Limited was declared as a Sick Industrial Company. After considering the report of the operating agency, a scheme of merger/amalgamation of MIL with Ceat Ltd. was sanctioned on 1st July 1989. The proceedings thereafter before the B.I.F.R. arose from an application by the Company for the issuance of a certificate under Section 72A (2) of the Income-Tax Act, 1961. The B.I.F.R. issued a certificate on 8th September 1992. Ceat Ltd. applied for a correction in the certificate. That application was dismissed by the B.I.F.R. on 31st March 1993. It was that order by the B.I.F.R. which was confirmed by the A.A.I.F.R. on 4th February 1994. The affidavit in reply has also annexed to it a copy of the order dated 17th May 2007 passed by

the Delhi High Court in proceedings arising out of the order of the A.A.I.F.R. confirming the rejection of the application filed by the Respondent for the issuance of a correction in the certificate under Section 72A (2) of the Income-Tax Act, 1961.

4. Having regard to this factual position, it would appear on the record available before the Court that there was no occasion for the B.I.F.R. to pass an order under Order 20(1) that the Respondent herein should be wound up. In fact, it was MIL which was a Sick Industrial Company and which was merged/amalgamated with the Respondent in pursuance of the scheme sanctioned by the B.I.F.R.

5. The Company Petition does not in the circumstances warrant the passing of any order of winding up and shall accordingly stand dismissed.